



Genocide in Gaza: A Legal and Analytical Review

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Abstract:

This article provides a legal and analytical review of whether the situation in Gaza amounts to genocide under the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. It examines the Convention's elements—killing members of the group, causing serious bodily or mental harm, inflicting destructive living conditions, and the requirement of specific intent—against the events in Gaza since October 2023. Relying on reports from Human Rights Watch, Amnesty International, the United Nations, and statements by Special Rapporteur Francesca Albanese, the article argues that the scale of civilian deaths, serious injuries, psychological trauma, blockade, denial of humanitarian aid, and destruction of hospitals and infrastructure may support the legal characterization of genocidal conduct. It also notes that official statements by Israeli officials have been cited as evidence of intent in proceedings before the International Court of Justice. The article concludes that, by early 2025, the evidentiary basis for alleged genocide had become clearer and that urgent international scrutiny and accountability are required.

Keywords:

genocide, Gaza, international law, specific intent, mens rea, accountability.

Does what is happening in Gaza amount to the crime of genocide?

An analytical reading in light of the 1948 United Nations Convention

Since October 2023, the world has been witnessing an escalation of military operations in the Gaza Strip, resulting in thousands of deaths and injuries, as well as unprecedented destruction of civilian infrastructure. Amid these events, a fundamental legal question arises:

Do the elements of the crime of genocide, as defined by the 1948 United Nations Convention, apply to the situation in Gaza?

This article provides an analytical examination of this question based on international law, specifically the Convention on the Prevention and Punishment of the Crime of Genocide, to assess its applicability to the Palestinian case.

What is the crime of genocide?

According to Article 2 of the 1948 Convention, genocide is defined as:

"Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group.

What distinguishes genocide from other international crimes is the specific intent element (*dolus specialis*), namely the deliberate intention to destroy the targeted group.

Do these elements apply to the Gaza situation?

Based on credible reports from international human rights organizations such as Human Rights Watch, Amnesty International, and the United Nations (including statements by the Special Rapporteur Francesca Albanese), several acts can be identified that potentially constitute components of genocide:

- **Killing members of the group:**

Civilian death tolls—particularly women and children—have surpassed tens of thousands. Data indicate that these killings are not incidental or collateral damage, but rather indicative of a systematic pattern of violence.

- **Causing serious bodily or mental harm:**

Permanent physical injuries, disabilities, and profound psychological trauma among survivors—especially children—are clear indicators of serious and ongoing harm.

- **Deliberate destructive living conditions:**

The stringent blockade, denial of humanitarian aid, targeting of hospitals and critical infrastructure collectively support the legal presumption that the population is subjected to conditions intended to partially or wholly destroy them.

Is there intent? (The mens rea element)?

The specific intent is the most complex standard in defining genocide. Nonetheless, documented official statements by Israeli officials—including ministers and parliamentarians—contain direct references to the intent to "remove Gaza," "completely destroy it," or "expel its population." These statements have been cited in legal filings before the International Court of Justice.

Legal turning point: Early 2025

According to numerous international lawyers and UN special rapporteurs, early 2025 marked a pivotal shift; evidence pointing to the fulfillment of some genocide elements in Gaza has become clearer and more legally articulable, leading to increased calls for international criminal investigations and accountability of perpetrators.

Is the time for international accountability now?

Whether the crime is legally proven before international courts or not, what is occurring in Gaza warrants a serious and comprehensive international inquiry. Legal characterization alone is insufficient but serves as an essential tool for holding responsible parties accountable, documenting suffering, and preventing recurrence.

Genocide is not merely a crime against a particular people—it is a crime against all humanity.

Findings and Recommendations:

The article finds that several elements of genocide may be present in Gaza, especially killing, serious harm, and destructive living conditions. It recommends an independent international inquiry and stronger accountability mechanisms.

Conclusion:

What is happening in Gaza warrants serious international legal examination, regardless of the final judicial characterization.

Key References:

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